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December 28, 2009

Hon. Bernard Zimmerman
Magistrate Judge
U.S. District Court
Courtroom G, 15th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

Re: Discovery and Pretrial Scheduling
Request To Continue Scheduled Telephonic Hearing
Fujisawa v. Compass Vision, Inc. et al
Case No. 3:07-cv-05642-BZ
Garlick v. Compass Vision, Inc. et al
Case No. 3:08-cv-04118-BZ
Byrum et al v. Compass Vision, Inc., et al
Case No. 09-cv-02016-BZ
Trial Date: May 11, 2010

Dear Judge Zimmerman:

The purpose of this letter, which has been submitted to and approved by all counsel, is to advise the Court of developments since the telephonic conference which took place on December 15, 2009.

During the Conference, counsel advised the Court that the State of California would file its Motion For Protective Order to prevent discovery of material which both plaintiffs and defendants desire to obtain, but which the State contends is officially privileged. Hearing on that Motion, previously set for January 7, 2010, has been continued by order of the Court until January 14, 2010 before the Hon. Gregory G. Hollows, Magistrate Judge, Eastern District of California. As was discussed during the December 15 telephonic conference, the outcome of this hearing and the availability of the materials being subpoenaed will largely determine the content of succeeding depositions of State of California and defense witnesses. Counsel have tentatively scheduled the remaining fact witness depositions (other than experts who are also fact

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witnesses) for the first three weeks in February. Counsel have further agreed to confer with their experts and consider whether they can schedule both percipient and expert depositions of two out-of-state witnesses for the first week in March. The remainder of the depositions cannot be held until the Court rules on the Motion For Protective Order. Accordingly, the ability to start the depositions will depend on when Judge Hollows' ruling on the Motion becomes available. Furthermore, experts cannot prepare their reports and be deposed until the deposition testimony of the witnesses is available as potential bases of the experts' opinions.

Pursuant to your Order of December 16, 2009, counsel met and conferred telephonically on December 23, 2009 regarding scheduling of depositions. In anticipation of Judge Hollows' ruling on the Motion For Protective Order, counsel have tentatively scheduled some depositions for the weeks of February 1 and 8, 2010. After Judge Hollows rules on the Motion For Protective Order, counsel will be in a position to suggest a time-frame for the depositions consistent with extension of the current dates for completion of discovery.

Counsel request that the telephonic conference set by the Court in the December 16, 2009 Order be continued until January 15, 2010 due to Judge Hollows' one-week continuance to January 14, 2010 of the hearing on the Motion For Protective Order previously set for January 7, 2010. Counsel will make themselves available for an earlier telephonic conference should the Court consider such a conference appropriate.

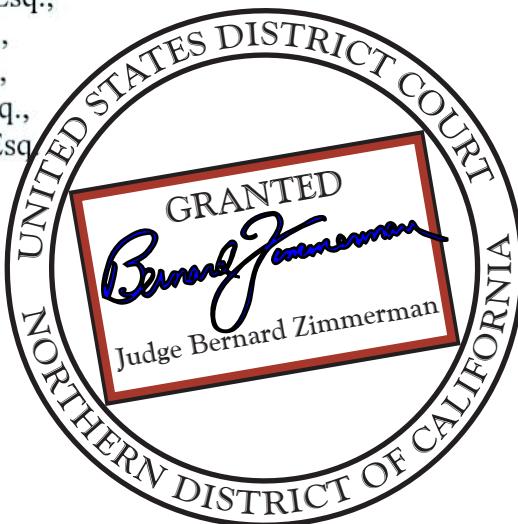
Yours truly,

THE KANE LAW FIRM

/s/ Steven S. Kane

Steven S. Kane, Attorney for Plaintiffs

CC: Jennifer L. Dauer, Esq.,
Norman Perlberger, Esq.,
Jeremy A. Meir, Esq.,
David F. Beach, Esq.,
Mark L. Brandon, Esq.,
Christian B. Green, Esq.



GRANTED. Phone conference continued to **Jan. 22, 2010 at 9:00 a.m.** Counsel shall contact **CourtCall**, telephonic court appearances at **1-888-882-6878**, and make arrangements for the telephonic conference call.
Date: Dec. 29, 2009

1 U.S. District Court for the Northern District of California

2 FUJISAWA, et al. V. COMPASS VISION, INC, et al

3 Case No. 3:07cv05642BZ

4 GARLICK v. COMPASS VISION, INC, et al

5 Case No. 3:08cv04118BZ

6 BYRUM et al v. COMPASS VISION, INC, et al

7 Case No. 3:09cv02016BZ

8
9 DECLARATION OF SERVICE

10 I am a citizen fo the United States, over the age of 18 years and not a party to or interested
11 in this action. I am employed in the County of San Diego, State of California and my business
12 address is 402 W. Broadway, Suite 860, San Diego, CA 92101. On this day I caused to be served
13 the following document:

14 **LETTER TO THE HONORABLE BERNARD ZIMMERMAN, MAGISTRATE JUDGE**

15 BY ELECTRONIC SERVICE. I served the above listed document via the U.S. District Court's
16 Electronic Filing Program on the designated recipients through electronic transmission through
17 the CM/ECF system on the Court's Website addressed as follows:

18 Jennifer Dauer jdauer@diepenbrock.com

19 David F. Beach beach@perrylaw.net

20 Christian Barrett Green christian.green@cna.com

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24 Eliot Lewis ehl@pomerantzperlberger.com

25 I declared under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct.

27 Executed on December 28, 2009 at San Diego, California.

28
29 
30 Carolyn Mills